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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,173	09/19/2001	Masahiro Numata	Q66289	9410

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SUGHRUE, MION, ZINN, MACPEAK & SEAS  
2100 Pennsylvania Avenue, N.W.  
Washington, DC 20037

EXAMINER
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PENG, FRED H

ART UNIT	PAPER NUMBER
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2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/22/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

09/955,173

Applicant(s)

NUMATA ET AL.

Examiner

Fred Peng

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2,4-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/01/07 has been entered.

**DETAILED ACTION**

***Response to Arguments***

2. Applicant's arguments with respect to claim 1-2 and 4-22 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, 4-10, 12, 14, 18 and 19 are rejected under 35 U.S.C. 102(e) as being unpatentable over Lawler (US 5,758,259) in view of Mori et al (US 2004/0210932 A1).

Regarding Claim 1, Lawler discloses a program guide apparatus (electronic program guide, Col. 6 lines 11-21) for displaying information about a broadcast program on a program guide display (video display set 18 - figure 1, Col. 3 lines 32-37), comprising:

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a priority degree (viewer history correlation, Col. 8 lines 56-62) calculating device for calculating priority degrees of programs (each user group, i.e. personal, household, national, and critics, has a different criterion count values, viewer history correlation is calculated by summing up all the criterion counts that applies to a program under each user group (Col. 7 line 62 - Col. 8 line 3, Col. 8 line 63 - Col. 9 line 19); and

a display device for, on the basis of the calculated priority degrees of said programs, arranging and displaying program cells of the programs on a program guide display screen of a predetermined time range (figure 3B shows a list of preferred program according to different user group, i.e. personal preference, household preference, etc., in a given period of time, the program with the highest viewer history correlation value is then chosen to be the preferred program for the user group, Col. 4 lines 43-49, Col. 9 lines 12-18),

wherein the programs comprise a first program and a second program (figure 3B, Trailside: Make your own adventure and Today's Gourmet, Col. 4 lines 43-49).

However, Lawler fails to disclose the first program period overlapping with the second program period.

In an analogous art, Mori teaches the first program period overlaps with the second program period (FIG.16, NEWS 1, the first preferred program, is overlapped with the second preferred program, PROGRAM 3, Para 125 lines 9-12).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Lawler's system to include the first program period overlapping with the second program period, as taught by Mori to help the viewer to make viewing decision based on the overlapping period and the program priority.

Regarding Claim 2, Lawler discloses a program guide (electronic program guide, Col. 6 lines 11-21) apparatus for displaying information about a broadcast program on a program guide display (video display set 18 - figure 1, Col. 3 lines 32-37), comprising: a priority degree (viewer history correlation, Col. 8 lines 56-62) calculating device for calculating priority degrees of

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programs (each user group, i.e. personal, household, national, and critics, has a different criterion count values, viewer history correlation is calculated by summing up all the criterion counts that applies to a program under each user group, Col. 7 line 62 - Col. 8 line 3, Col. 8 line 63 - Col. 9 line 19; and a display device for, in the order of the calculated priority degrees, arranging and displaying program cells of the programs on a program guide display screen of a predetermined time range (figure 3B shows a list of preferred program according to different user group, i.e. personal preference, household preference, etc., in a given period of time, the program with the highest viewer history correlation value is then chosen to be the preferred program for the user group, Col. 4 lines 43-49, Col. 9 lines 12-18), wherein the programs comprise a first program and a second program (figure 3B, Trailside: Make your own adventure and Today's Gourmet, Col. 4 lines 43-49).

However, Lawler fails to disclose the first program period overlapping with the second program period.

In an analogous art, Mori teaches the first program period overlaps with the second program period (FIG.16, NEWS 1, the first preferred program, is overlapped with the second preferred program, PROGRAM 3, Para 125 lines 9-12).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Lawler's system to include the first program period overlapping with the second program period, as taught by Mori to help the viewer to make viewing decision based on the overlapping period and the program priority.

Regarding Claim 4, Lawler further discloses a list display device for displaying a list of programs which overlap a program cell selected by a user in time (figure 3B shows a list of preferred program according to different user groups, i.e. personal preference, household preference, etc., each program is shown in a 30 minutes or 1 hour cell).

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Regarding Claim 5, Lawler further discloses a display device displays a classification axis (user groups, figure 3B), which is provided in a different direction from a time axis in said program guide display screen, and by each classification in said classification axis, arranges and displays said program cells on the program guide display screen of the predetermined time range (figure 3B, time axis is shown as the first row and the user groups are shown as the first column).

Regarding Claim 6, Lawler discloses the priority degree calculating device calculates the priority degrees of said programs on the basis of a predetermined operation history (criterion count - table 2, Col. 7 line 62 - Col. 8 line 3) of a user (the viewer history correlation is calculated by adding up the appropriate criterion count for a program, Col. 8 line 63 - Col. 9 line 18).

Regarding Claim 7, Lawler further discloses the priority degree calculating device calculates the priority degrees of said programs on the basis of a view history (the preferred programming is selected according to the viewing histories of individual, household, national, and critics, Col. 9 lines 28-49).

Regarding Claim 8, Lawler further discloses that the display device determines the program cells (figure 3B, cells for personal, household, national and critics references) to be arranged and displayed on said program guide display screen on the basis of a relative relation among the priority degrees of a plurality of programs (the highest viewer history correlation value program is picked and display on the appropriate cell - figure 3B, Col. 8 line 63 - Col. 9 line 18).

Regarding Claim 9, Lawler further discloses the display device determines the program cells to be arranged and displayed on said program guide display screen on the basis of a relation with a reference priority degree provided in advance (the criterion counts are determined periodically by the central control node, Col. 9 lines 20-26).

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Regarding Claim 10, Lawler further discloses that the reference priority degree can be arbitrarily set (the criterion counts are determined periodically by the central control node, Col. 9 lines 20-26).

Regarding Claim 12, Lawler further discloses that the classification is broadcasting medium of said programs (figure 3C, Col. 5 lines 21-31).

Regarding Claim 14, Lawler discloses a program guide method of displaying information about a broadcast program on a program guide display, comprising the processes of: calculating priority degrees of programs (each user group, i.e. personal, household, national, and critics, has a different criterion count values, viewer history correlation is calculated by summing up all the criterion count that applies to a program under each user group, Col. 7 line 62 - Col. 8 line 3, Col. 8 line 63 - Col. 9 line 19); and arranging and displaying program cells of the programs on the program guide display screen (video display set 18 - figure 1, Col. 3 lines 32-37) of a predetermined time range wherein the program whose priority degree is higher should be preferentially displayed (the program with the highest viewer history correlation value is chosen to be the preferred program for the user group, Col. 7 line 62 - Col. 8 line 3, Col. 8 line 63 - Col. 9 line 19), wherein the programs comprise a first program and a second program (figure 3B, Trailside: Make your own adventure and Today's Gourmet, Col. 4 lines 43-49).

However, Lawler fails to disclose the first program period overlapping with the second program period.

In an analogous art, Mori teaches the first program period overlaps with the second program period (FIG.16, NEWS 1, the first preferred program, is overlapped with the second preferred program, PROGRAM 3, Para 125 lines 9-12).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Lawler's system to include the first program period overlapping with the second

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program period, as taught by Mori to help the viewer to make viewing decision based on the overlapping period and the program priority.

Regarding Claim 18, Lawler discloses a program guide apparatus, comprising a control circuit that determines a first priority of a first program and a second priority of a second program (interactive station controllers 20 - figure 1, Col. 3 lines 39-52); and a display that displays, in a program guide, a first program cell corresponding to the first program and a second program cell corresponding to the second program based on the first priority and the second priority (figure 3B, Trailside: Make your own adventure and Today's Gourmet, Col. 4 lines 43-49).

However, Lawler fails to disclose the first program period overlapping with the second program period.

In an analogous art, Mori teaches the first program period overlaps with the second program period (FIG.16, NEWS 1, the first preferred program, is overlapped with the second preferred program, PROGRAM 3, Para 125 lines 9-12).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Lawler's system to include the first program period overlapping with the second program period, as taught by Mori to help the viewer to make viewing decision based on the overlapping period and the program priority.

Considering Claim 19, Mori further discloses a beginning time of the first program is earlier than a beginning time of the second program (FIG.16, NEWS 1 is earlier than PROGRAM 3), wherein an ending time of the first program cell corresponds to an ending time of the first program, wherein a beginning time of the second program cell corresponds to a beginning time of the second program, wherein the beginning time of the second program is earlier than the ending time of the first program wherein the display displays the ending time of the first program cell in a time slot where the first broadcast period and the second broadcast period are broadcast at a same time and displays the beginning time of the second program cell in the time slot (FIG.16,



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PROGRAM3 begin earlier than the NEWS 1 ending and there is an overlapping period where they are broadcast at the same time).

5. Claim 11 rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler (US 5,758,259) and Mori et al (US 2004/0210932 A1) as applied to Claims 1 and 5 above, and further in view of Knee et al (US 5,589,892).

Regarding Claim 11, Lawler and Mori disclose a system as mentioned above.

Lawler and Mori fail to disclose the classification is a genre of program.

In an analogous art, Knee discloses a listing by the genre of programs (figure 19, Col. 19 lines 8-29). By listing the programs according to the genres, i.e. movies, sports, news, and children, the user can search the available contents and categorize the information by content for purposes of displaying it by genre.

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the combined system of Lawler and Mori to provide listing by genres of program, as taught by Knee, for the advantage of searching the available contents and categorizing the information by content for purpose of displaying it by genre.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler (US 5,758,259) and Mori et al (US 2004/0210932 A1) as applied to Claims 1 and 5 above, and further in view of Wugofski (US 6,704,028).

Regarding Claim 13, Lawler and Mori disclose a system as mentioned above.

Lawler and Mori fail to teach that the classification is user of the program guide apparatus.

In an analogous art, Wugofski discloses a system that displays the list by users (69e - figure 5, Col. 6 lines 24-43). The user can quickly select one of the priority programs from any one of the priority lists for the users.

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Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention is made to modify the combined system of Lawler and Mori to display the program lists by users, as taught in Wugoski, for the advantage of selecting one of the priority programs from any one of the priority lists for the users.

7. Claims 15-17 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler (US 5,758,259) and Mori et al (US 2004/0210932 A1) as applied to Claims 1, 2, 14, 18 and 19 above, and further in view of Entwistle (US 6,968,566).

Regarding Claims 15-17 and 20-22, Lawler and Mori disclose a system as mentioned above.

Lawler and Mori fail to teach the first program cell and the second program cell are separated with a slanted border line.

In an analogous art, Entwistle teaches the first program cell and the second program cell are separated with a slanted border line (figure 3 and 5, Col. 4 lines 2-6).

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the combined system of Lawler and Mori to separate the first program cell and the second program cell with a slanted border line, as taught by Entwistle, for the advantage of illustrating displacement through use of the delay facility (Col. 4 lines 2-6).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Peng whose telephone number is (571) 270-1147. The examiner can normally be reached on Monday-Friday 08:30-18:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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